

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AMERICAN SMALL BUSINESS
LEAGUE,

No. C 10-1680 CRB

ORDER

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
ENERGY,

Defendant.

Defendant United States Department of Energy moved to dismiss on July 14, asking for “an award of zero attorneys fees and zero costs for [Plaintiff] ASBL.” Doc. 14. Plaintiff failed to file a timely response. On August 10, ten days before the scheduled hearing, Plaintiff filed a Statement of Non-Opposition to Motion to Dismiss suggesting that the Court should retain “jurisdiction over the parties for the purpose of Plaintiff’s motion for attorneys fees”

Plaintiff’s filing attempts to dispose of the pending motion while preserving its right to seek attorneys fees, and in so doing fails to appreciate the nature of Defendant’s motion. This Court cannot grant the relief requested in the motion while still permitting Plaintiff to file a motion for attorneys fees. In other words, despite Plaintiff’s statement of non-opposition, it is apparent that Plaintiff does in fact oppose the relief requested. It is

1 Plaintiff's obligation to oppose Defendant's motion within the time frame outlined by the
2 relevant rules, and Plaintiff has failed to do so.

3 However, this Court will permit Plaintiff one final chance to articulate its opposition
4 to Defendant's motion. The hearing currently scheduled for August 20, 2010, is hereby
5 continued to September 10, 2010. Plaintiff shall file any opposition no later than August 27,
6 and Defendant shall file a reply, if it wishes, no later than September 3, 2010.

7 **IT IS SO ORDERED.**

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10 Dated: August 18, 2010



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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE